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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems And Their)
Impact Upon The Existing Television Service)

MM Docket No. 87-268

To: The Commission

**COMMENTS ON "FURTHER PETITION FOR RECONSIDERATION"
OF MARANATHA BROADCASTING COMPANY, INC.**

Mountain Broadcasting Corporation ("Mountain"), by its attorneys and pursuant to Section 1.429(f) of the FCC Rules, submits these Comments on the Further Petition For Reconsideration ("Further Petition") filed on April 20, 1998 by Maranatha Broadcasting Company, Inc. ("Maranatha"). Mountain is the licensee of WMBC-TV ("WMBC"), Newton, New Jersey and Maranatha the licensee of WFMZ-TV ("WFMZ"), Allentown, Pennsylvania. Maranatha seeks to change the DTV assignment of another station, which is the same channel assigned to WFMZ for DTV broadcasting. One of its proposed alternatives, however, would further exacerbate the already intolerable interference to WMBC's DTV assignment on a permanent basis. That alternative is simply not viable.¹

¹Because of the impact of Maranatha's proposal on WMBC's current DTV assignment, Mountain has standing to file these Comments. Mountain's Comments are timely-filed within 15 days after the Commission's Public Notice of the most recent petitions for reconsideration in this proceeding, 63 Fed. Reg. 25862 (May 11, 1998).

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The Commission's Memorandum Opinion and Order On Reconsideration of the Sixth Report and Order, FCC 98-24, released February 23, 1998 ("Reconsideration Order"), assigned channel 46 to WFMZ for DTV broadcasting. Maranatha contends that this assignment actually would be short-spaced to the channel 46 DTV assignment to WWAC-TV in Atlantic City. Maranatha thus proposes that the Commission substitute one of three alternatives, including channel 8, at Atlantic City. According to Maranatha, channel 8 actually would be "the preferred assignment at Atlantic City," although that assignment would cause what Maranatha describes as additional "*de minimis*" interference to WMBC's DTV operations on that channel as well as other stations. Further Petition at 8.

WMBC is a minority-owned UHF station that will be forced to bear the greatest interference in the entire New York City market due to the implementation of DTV as proposed by the Reconsideration Order. Specifically, current DTV assignments will create new interference to 19 percent of WMBC's *existing* NTSC service area population, affecting more than a million and a half people. Further, Mountain's DTV service area population from channel 8 will be 31 percent smaller than its current service area population during the transition, a decrease of more than two and a half million people. WMBC's DTV service area is likely to remain truncated on a permanent basis, because the Commission will allow other broadcasters in the New York area to retain their desirable assignments on channels 7, 8 and 9.

As Mountain previously has argued before the Commission, no individual station should be forced to endure such a dramatic loss of service, contrary to the very goals underlying the DTV rule making proceeding. Nor should so many viewers be deprived of the ability to continue to receive an established broadcast service. The situation is even more

egregious where, as here, the station bearing that burden is one of the few minority-owned television facilities in the country and is licensed to a community in a state historically lacking local service. Indeed, Mountain has sought judicial relief through a petition for review of the Reconsideration Order before the U.S. Court of Appeals for the District of Columbia Circuit.

The balance of equities present certainly does not favor granting WFMZ additional protection at the expense of WMBC. According to the Commission's calculations, WFMZ's current DTV assignment will result in a DTV service area population that is 156,000 *greater* than its current service area population, an increase of 8.1 percent. In stark contrast, WMBC's current DTV assignment will result in a DTV service area population that is more than 2,500,000 *less* than its current service area population, a loss of 31 percent. In short, WMBC faces devastating losses from its DTV assignment, while WFMZ's coverage will only improve.²

Maranatha's real concern appears to be with the station's ability to *expand* its coverage in the future. Its engineer states in his supporting exhibit that:

Although, with the facilities (50 kW) assigned in the Sixth Report and Order, *WFMZ-DT is not predicted* to cause interference to or *to receive interference* from WWAC-

²According to the Commission's calculations, WFMZ's current service area includes 1,919,000 people and its transitional DTV service area will expand to 2,075,000. Reconsideration Order, Appendix B, at B-36. Maranatha argues that the Commission erroneously undercounted WFMZ's existing service area population. Further Petition at 3. Presumably, if Maranatha is correct, the Commission's methodology similarly would have understated WFMZ's DTV service area population as well. In any event, it is certainly doubtful that any methodology would indicate that WFMZ actually faces a loss of population coverage similar to that imposed upon WMBC.

DT, the extreme short-spacing between the two allotments can be expected to prevent either station from *making improvements now or in the future*.³

Clearly, one station's desire to upgrade cannot take precedence over another station's need to simply maintain its existing level of service, a primary goal in this proceeding.

Maranatha's engineer reports that the *percentage of short spacing* between Atlantic City and Newton would be approximately the same as the current short spacing between Atlantic City and Allentown. But the real comparison between the current DTV allotments' impact should be in terms of population subjected to an actual loss of service. WMBC will experience significant new interference under the current table; WFMZ will not.

Maranatha argues that the additional interference to WMBC-DT would be relatively small. The fact is, however, that WMBC and its listeners already are facing an intolerable loss of service. Any further reduction in DTV service by WMBC would simply add insult to injury and aggravate a situation already contrary to the public interest and the goals underlying the DTV proceeding. On further reconsideration, the Commission should consider modifications to the DTV Table Of Allotments that will help to preserve WMBC's existing level of service, not further erode that service.

In addition, Maranatha concedes that the proposed assignment of DTV channel 8 to Atlantic City would be short-spaced not only to WMBC, but also to the current NTSC channel assignments of WTNH, New Haven, Connecticut and WGAL-TV, Lancaster, Pennsylvania.⁴

³Further Petition, Attachment B, at 4 (emphasis added).

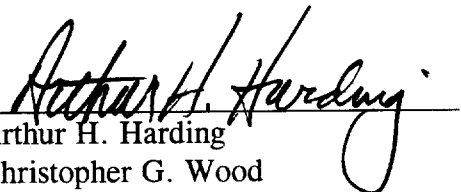
⁴Further Petition, Attachment B, at 10.

In fact, this additional interference also precludes the grant of Maranatha's proposal. Attached hereto in the engineering statement of Robert du Treil, Jr., who calculates that the interference cause to WGAL would be 4.1 percent, more than twice the level that would be acceptable under the FCC's *de minimus* standard. The proposed use of Channel 8 for WWAC-DT is thus unacceptable and contrary to the public interest.

Respectfully submitted,

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Dated: May 22, 1998

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ENGINEERING STATEMENT
CONCERNING MARANATHA BROADCASTING COMPANY, INC.
FURTHER PETITION FOR RECONSIDERATION
PREPARED FOR
MOUNTAIN BROADCASTING CORPORATION
NEWTON, NEW JERSEY

This Engineering Statement was prepared on behalf of Mountain Broadcasting Corporation ("Mountain") concerning the Petition for Further Reconsideration filed by Maranatha Broadcasting Company, Inc. ("MBC") in MM Docket No. 87-268 ("DTV Proceeding"). Mountain is the licensee of television broadcast station WMBC-TV, Newton, New Jersey (Channel 63). Through the processes of the DTV Proceeding, Mountain was allotted Channel 8 as its transitional DTV channel.

MBC is the licensee of television broadcast station WFMZ-TV, Allentown, Pennsylvania (Channel 69). The FCC allotted WFMZ-TV Channel 46 for its DTV transitional channel. In its Petition for Further Reconsideration, MBC submits that its Channel 46 allotment is substantially restricted due to the FCC allotment of Channel 46 for the DTV transitional channel of WWAC-TV, Atlantic City, New Jersey. WWAC-TV is licensed for operation on Channel 53 with an ERP of 12.3 kW and antenna HAAT of 85 m. MBC suggests that WWAC-TV be allotted Channel 8, or some other channel, instead of Channel 46 for its DTV operation. It is demonstrated herein that Channel 8 is not a feasible DTV option for WWAC-TV.

The MBC Petition for Further Reconsideration suggests that WWAC-DT* be allotted Channel 8 with an ERP of 16 kW. It is not clear whether the intent was that WWAC-DT employ the same type of directional antenna now employed by WWAC-TV or that it employ another type of directional antenna or a non-directional antenna. In any case, the ERP level of 16 kW produces a contour that is well beyond the licensed WWAC-TV Grade B contour. In fact, assuming the same directional antenna, a maximum ERP of 10 watts (0.010 kilowatts) is all that is necessary to replicate the WWAC-TV Grade B with the 36 dBu f(50,90) contour of WWAC-DT. Therefore, pursuant to the FCC procedure in the DTV Proceeding, the minimum ERP level of 3.2 kW was assumed for study purposes, with the same radiation center height above mean sea level (88 m AMSL). A directional antenna of the same type now employed by WWAC-DT was assumed for study purposes as well.[†]

The interference effect of the proposed Channel 8 DTV facility was assessed using the general FCC procedures outlined in OET Bulletin No. 69 and the FCC's DTV Proceeding. The DTV interference analysis procedures of the FCC's OET Bulletin No. 69 have been implemented by this firm in a program similar to the FCC algorithm. The results of this program are in close agreement with the FCC published DTV interference analysis results. This program was employed to analyze the Channel 8 proposal for WWAC-DT based on the assumptions outlined above. In accordance with the FCC

* In keeping with Commission practice, reference to the DTV operation of WWAC-TV shall be WWAC-DT.

† In reviewing Attachment C of the MBC Petition for Further Reconsideration, which provides the results of an interference analysis of the DTV Channel 8 proposal for WWAC-DT, some irregularities were found in the population figures. For example, on Page 18 of Attachment C, the net population of "8A NJ NEWTON" (WMBC-DT) is 649,101 (819,120-170,019). This is an order of magnitude different than the population figure shown in the FCC DTV Proceed Memorandum Opinion and Order of 5,709,000. In fact, comparing many of the entries in Attachment C, most do not agree with the FCC table by significant margins.

procedure, the program computes the Longley-Rice calculated service to thousands of points within the FCC Grade B contour coverage "envelope." Interference calculations are made to each of the service points from co-channel and adjacent-channel stations in the vicinity. The net interference predicted from the subject interfering station is then evaluated considering interference predicted from other stations. Thus the program determines the total interference to a station and the unique interference to a station from another interfering station.* In accordance with FCC procedures interference levels are expressed in terms of population calculated based on the 1990 Census.

In this case, OET-69-type interference calculations were conducted with respect to the following stations from the WWAC-DT proposal:

1. WABC-TV, New York, NY, Channel 7
2. WMBC-DT, Newton, NJ, Channel 8
3. WGAL(TV), Lancaster, PA, Channel 8
4. WTNH(TV), New Haven, CT, Channel 8
5. WICZ-DT, Binghamton, NY, Channel 8
6. WWOR-TV, Secaucus, NJ, Channel 9.

The following table summarizes the results of the interference analysis:

| Station | Grade B/Noise-limited Service Population from FCC DTV Proceeding | Total Calculated Interference from WWAC-DT on Channel 8 | Net Calculated Interference from WWAC-DT on Channel 8 / Percent of Grade B/NL |
|----------|--|--|---|
| WABC-TV | 17,189,000 | 0 | 0 / 0.000 |
| WMBC-DT | 5,709,000 | 56,088 | 265 / 0.005 |
| WGAL(TV) | 2,785,000 | 236,511 | 115,993 / 4.165 |
| WTNH(TV) | 4,690,000 | 189,376 | 0 / 0.000 |
| WICZ-DT | 906,000 | 0 | 0 / 0.000 |
| WWOR-TV | 16,641,000 | 0 | 0 / 0.000 |

* Reference to interference occurring to points that already have interference predicted by another station are referred to as "masked" interference. The FCC DTV interference algorithm employs this procedure.

As indicated above, the proposal would result in net interference to WMBC-DT and WGAL(TV).

Based on the above there would be net interference to a population of 115,993 within the WGAL(TV) service area. The WGAL(TV) service area as adjusted for terrain losses and other interference contains a population of 2,785,000. The interference caused from WWAC-DT Channel 8 facility would be over 4.1% of the WGAL(TV) service area. This is more than double the level the FCC indicated would be permissible under the *de minimus* criterion outlined in the DTV Proceeding. Also, while the net interference to WMBC-DT is comparatively small, the WMBC-DT allotment is predicted to suffer much greater than 10% of interference from other stations. Thus under the *de minimus* FCC criterion, the WMBC-DT allotment should not suffer any additional interference. In view of the foregoing, the WWAC-DT proposed use of Channel 8 would be impermissible.



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May 21, 1998

CERTIFICATE OF SERVICE

I, Bernadette Clark, a secretary at the law firm of Fleischman and Walsh, L.L.P. hereby certify that copies of the foregoing Comments of Mountain Broadcasting Corporation were served this 22nd day of May 1998, via regular mail, upon the following:

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